

**ASSEMBLY BILL**

**No. 839**

**Introduced by Assembly Member Salinas**

February 20, 2003

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An act to amend Sections 26202.6, 34090.6, and 34090.7 of, to add Sections 26206.7, 26206.8, and 34090.8 to, to add Article 9 (commencing with Section 53160) to Chapter 1 of Part 1 of Division 2 of Title 5 of, and to repeal Section 26202.3 of, the Government Code, and to add Section 99163 to the Public Utilities Code, relating to local government records.

LEGISLATIVE COUNSEL'S DIGEST

AB 839, as introduced, Salinas. Local government records: recordings: public transit systems.

Existing law contains various record retention provisions applicable to counties, applicable to cities, and applicable to districts and other entities of local government. Existing law generally allows cities and counties to authorize the destruction of recordings of routine video monitoring after one year and of recordings of telephone and radio communications after 100 days.

This bill would revise and recast these provisions. The bill would place the county provisions in the part of the Government Code relating to counties and the city provisions in the part of the Government Code relating to cities. The bill would delete erroneous references in the various provisions that refer to entities of local government not covered by the respective parts of the Government Code. The bill would enact separate provisions applicable to special districts.

This bill would also provide that the above provisions relating to retention of videotapes and recordings do not apply to videotapes or

recordings made by security cameras operated as part of a public transit system, except for videotapes or recordings that are evidence in a claim filed or pending litigation or are the subject of an incident report and except as provided with respect to transit systems operated by a city or a city and county.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. It is the intent of this act to revise and conform  
2 various statutes pertaining to the authority of cities, counties, and  
3 special districts to destroy recordings of routine video monitoring  
4 and of telephone and radio communications after certain periods  
5 of time, by removing references in certain statutes to units of  
6 government not subject to particular chapters of the Government  
7 Code in which those statutes are located, and by making  
8 appropriate additions to other chapters of the Government Code,  
9 in order to thereby avoid ambiguity. It is further the intent of this  
10 act to provide that videotapes or recordings made by security  
11 cameras operated as a part of a public transit system are not  
12 required to be preserved as the technology applied in this regard  
13 is not readily amenable to storage, and the information gathered by  
14 these cameras is currently only retrieved on a case-by-case basis  
15 as a need arises, and in absence of retrieval the tape or recording  
16 is automatically recycled after a certain interval of time.

17     SEC. 2. Section 26202.3 of the Government Code is repealed.  
18     ~~26202.3. Notwithstanding Section 26202, the board, the~~  
19 ~~governing board of any special district whose membership is the~~  
20 ~~same as the membership of the board of supervisors, or the head~~  
21 ~~of any county public safety communications center may authorize~~  
22 ~~the destruction of recordings of routine video monitoring after one~~  
23 ~~year and may authorize the destruction of recordings of telephone~~  
24 ~~and radio communications maintained by the department or~~  
25 ~~special district after 100 days. The destruction shall be approved~~  
26 ~~by the legislative body and the written consent of the county~~  
27 ~~agency in the manner prescribed in Sections 34090, 34090.5,~~  
28 ~~34090.6, and 34090.7. In the event that the recordings are evidence~~  
29 ~~in any claim filed or in any pending litigation, they shall be~~  
30 ~~preserved until the claim or pending litigation is resolved.~~

SEC. 3. Section 26202.6 of the Government Code is amended to read:

26202.6. (a) Notwithstanding the provisions of Sections 26202, 26205, and 26205.1, the head of a department of a ~~city, county, or city and county, public safety communications center, or the head of a special district~~ county, *after one year, may destroy recordings of routine video monitoring, and after 100 days may destroy recordings of telephone and radio communications maintained by the department or the special district. Such. This* destruction shall be approved by the legislative body and the written consent of the agency attorney shall be obtained. In the event that ~~such~~ *the* recordings are evidence in any claim filed or any pending litigation, ~~such recordings they~~ shall be preserved until pending litigation is resolved.

(b) For purposes of this section, “recordings of telephone and radio communications” means the routine daily taping and recording of telephone communications to and from a ~~city, county, city and county, or special district department~~ county and all radio communications relating to the operations of ~~such departments or special district~~ *the departments*.

(c) For purposes of this section, “routine video monitoring” means *videotaping by a video or electronic imaging system designed to record the regular and ongoing operations of the departments described in subdivision (a), including mobile in-car video systems, jail observation and monitoring systems, and building security taping systems.*

(d) For purposes of this section, “department” includes a *public safety communications center operated by the county and the governing board of any special district whose membership is the same as the membership of the board of supervisors.*

SEC. 4. Section 26206.7 is added to the Government Code, to read:

26206.7. Notwithstanding the provisions of Section 26202, the legislative body of a county may prescribe a procedure whereby duplicates of county records less than two years old may be destroyed if they are no longer required.

For purposes of this section, video recording media, such as videotapes and films, and including recordings of “routine video monitoring” pursuant to Section 26202.6, shall be considered duplicate records if the county keeps another record, such as

1 written minutes or an audiotape recording, of the event that is  
2 recorded in the video medium. However, a video recording  
3 medium shall not be destroyed or erased pursuant to this section  
4 for a period of at least 90 days after occurrence of the event  
5 recorded thereon.

6 SEC. 5. Section 26206.8 is added to the Government Code, to  
7 read:

8 26206.8. Notwithstanding any other provision of law, the  
9 preservation of videotapes or recordings made by security cameras  
10 operated as part of a public transit system by a county shall not be  
11 required, unless one of the following conditions applies:

12 (a) The videotapes or recordings are evidence in any claim filed  
13 or any pending litigation, in which case the videotapes or  
14 recordings shall be preserved until the claim or the pending  
15 litigation is resolved.

16 (b) The videotapes or recordings recorded an event that was or  
17 is the subject of an incident report.

18 SEC. 6. Section 34090.6 of the Government Code is amended  
19 to read:

20 34090.6. (a) Notwithstanding the provisions of Section  
21 34090, the head of a department of a city, ~~county~~, or city and  
22 county, ~~public safety communications center, or the head of a~~  
23 ~~special district~~, after one year, may destroy recordings of routine  
24 video monitoring, and after 100 days may destroy recordings of  
25 telephone and radio communications maintained by the  
26 department ~~or the special district~~. This destruction shall be  
27 approved by the legislative body and the written consent of the  
28 agency attorney shall be obtained. In the event that the recordings  
29 are evidence in any claim filed or any pending litigation, they shall  
30 be preserved until pending litigation is resolved.

31 (b) For purposes of this section, “recordings of telephone and  
32 radio communications” means the routine daily taping and  
33 recording of telephone communications to and from a city, ~~county~~,  
34 city and county, or ~~special district~~, department, and all radio  
35 communications relating to the operations of the departments ~~or~~  
36 ~~special districts~~.

37 (c) For purposes of this section, “routine video monitoring”  
38 means videotaping by a video or electronic imaging system  
39 designed to record the regular and ongoing operations of the  
40 departments ~~or districts~~ described in subdivision (a), including

1 mobile in-car video systems, jail observation and monitoring  
2 systems, and building security taping systems.

3 (d) For purposes of this section, “department” includes a  
4 public safety communications center operated by the city or city  
5 and county.

6 SEC. 7. Section 34090.7 of the Government Code is amended  
7 to read:

8 34090.7. Notwithstanding the provisions of Section 34090,  
9 the legislative body of a city or ~~county~~ may prescribe a procedure  
10 whereby duplicates of city or ~~county~~ records less than two years  
11 old may be destroyed if they are no longer required.

12 For purposes of this section, video recording media, such as  
13 videotapes and films, and including recordings of “routine video  
14 monitoring” pursuant to Section 34090.6, shall be considered  
15 duplicate records if the city or ~~county~~ keeps another record, such  
16 as written minutes or an audiotape recording, of the event that is  
17 recorded in the video medium. However, a video recording  
18 medium shall not be destroyed or erased pursuant to this section  
19 for a period of at least 90 days after occurrence of the event  
20 recorded thereon.

21 SEC. 8. Section 34090.8 is added to the Government Code, to  
22 read:

23 34090.8. Notwithstanding any other provision of law, the  
24 preservation of videotapes or recordings made by security cameras  
25 operated as part of a public transit system by a city or city and  
26 county shall not be required, unless one of the following  
27 conditions applies:

28 (a) The videotapes or recordings are evidence in any claim filed  
29 or any pending litigation, in which case the videotapes or  
30 recordings shall be preserved until the claim or the pending  
31 litigation is resolved.

32 (b) The videotapes or recordings recorded an event that was or  
33 is the subject of an incident report.

34 SEC. 9. Article 9 (commencing with Section 53160) is added  
35 to Chapter 1 of Part 1 of Division 2 of Title 5 of the Government  
36 Code, to read:

37

1 Article 9. Preservation of Videotapes and Recordings

2  
3 53160. (a) The head of a special district, after one year, may  
4 destroy recordings of routine video monitoring, and after 100 days  
5 may destroy recordings of telephone and radio communications  
6 maintained by the special district. This destruction shall be  
7 approved by the legislative body and the written consent of the  
8 agency attorney shall be obtained. In the event that the recordings  
9 are evidence in any claim filed or any pending litigation, they shall  
10 be preserved until pending litigation is resolved.

11 (b) For purposes of this article, “recordings of telephone and  
12 radio communications” means the routine daily taping and  
13 recording of telephone communications to and from a special  
14 district, and all radio communications relating to the operations of  
15 the special district.

16 (c) For purposes of this article, “routine video monitoring”  
17 means videotaping by a video or electronic imaging system  
18 designed to record the regular and ongoing operations of the  
19 special district, including mobile in-car video systems, jail  
20 observation and monitoring systems, and building security taping  
21 systems.

22 (d) For purposes of this article, “special district” shall have the  
23 same meaning as “public agency,” as that term is defined in  
24 Section 53050.

25 53161. Notwithstanding Section 53160, the legislative body  
26 of a special district may prescribe a procedure whereby duplicates  
27 of special district records less than two years old may be destroyed  
28 if they are no longer required.

29 For purposes of this section, video recording media, such as  
30 videotapes and films, and including recordings of routine video  
31 monitoring pursuant to Section 53160, shall be considered  
32 duplicate records if the special district keeps another record, such  
33 as written minutes or an audiotape recording, of the event that is  
34 recorded in the video medium. However, a video recording  
35 medium shall not be destroyed or erased pursuant to this section  
36 for at least 90 days after occurrence of the event recorded thereon.

37 53162. Notwithstanding any other provision of law, the  
38 preservation of videotapes or recordings made by security cameras  
39 operated as part of a public transit system by a special district shall  
40 not be required, unless one of the following conditions applies:

1 (a) The videotapes or recordings are evidence in any claim filed  
2 or any pending litigation, in which case the videotapes or  
3 recordings shall be preserved until the claim or the pending  
4 litigation is resolved.

5 (b) The videotapes or recordings recorded an event that was or  
6 is the subject of an incident report.

7 SEC. 10. Section 99163 is added to the Public Utilities Code,  
8 to read:

9 99163. Notwithstanding any other provision of law, the  
10 preservation of videotapes or recordings made by security cameras  
11 operated as part of a public transit system by an operator, as  
12 defined in Section 99210, shall not be required.

